

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

Case No. CV-S-05-0531-PMP-GWF

EXOTICS.COM, INC., L. REX ANDERSEN,

MARLIN R. BRINSKY, DANIEL G. CHAPMAN,

STEPHEN P. CORSO, JR., BARRY F. DUGGAN,

JAMES L. ERICKSTEEN, SEAN P. FLANAGAN,

FIROZ JINNAH, INGO W. MUELLER,

BRIAN K. RABINOVITZ, EDWARD JAMES

WEXLER, GARY THOMAS a/k/a GARY

THOMAS VOJTESAK,

Defendants,

and

FLANAGAN & ASSOCIATES, LTD.,

Relief Defendant.

“SPECIAL SCHEDULING REVIEW REQUESTED”

Stipulated Discovery Plan and Scheduling Order

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 26-1, counsel for plaintiff United States Securities and Exchange Commission (“Commission”), counsel for defendants Marlin R. Brinsky (“Brinsky”) and Brian K. Rabinovitz (“Rabinovitz”) and counsel for defendant L. Rex Andersen (“Andersen”) (collectively, “Defendants”) submit this Stipulated Discovery Plan and Scheduling Order. Given the nature and complexity of the allegations in the complaint, wherein the Commission has sued 13 principal defendants and one relief defendant, the parties herein request “Special Scheduling Review” of the Proposed Discovery Plan.

I. Background

The Commission filed this action in April 2005 against 13 principal defendants. In July 2005, Defendants Brinsky and Rabinovitz, two of the accountant defendants, filed motions to dismiss the Complaint. Similarly, in September 2005, defendant Andersen, another of the accountant defendants, filed a motion to dismiss the Complaint. In addition, in September 2005, defendants Daniel G. Chapman and Sean P. Flanagan filed motions to stay the proceedings against them given the pending unrelated criminal proceedings against them. In October 2005, the Court held oral arguments on (1) the motions to dismiss by Defendants Brinsky and Rabinovitz and (2) the motions to stay proceedings by Defendants Chapman and Flanagan. At the October 2005 oral argument, the Court granted, in part, Defendant Chapman's motion to stay proceedings until the conclusion of his criminal trial – which commenced on January 24, 2006. In November 2005, the Court denied the motions to dismiss filed by Defendants Brinsky and Rabinovitz. The motion to dismiss by Defendant Andersen remains pending before the Court.

In September 2005, Defendant James L. Ericksteen, who is *pro se*, filed an answer to the Complaint. In December 2005, after the denials of their motions to dismiss, Defendants Brinsky and Rabinovitz filed answers to the Complaint. Thus, as of today, three of the thirteen principal defendants have filed answers to the Complaint. In addition, given the Court's ruling during the October 2005 oral argument, it is anticipated that Defendants Chapman and Flanagan would only answer the Complaint following completion of their criminal trial, which the Commission staff understands is anticipated to last approximately two months.

In the meantime, the Commission staff has reached a settlement in principle with accountant defendant Barry F. Duggan; that proposed settlement still needs approval by the

Commission. The Commission staff is also currently engaged in settlement discussions with five additional defendants; settlements with any of the five would obviate the need for the filing of answers by any of the settling defendants.

In addition, in December 2005, the Commission obtained a clerk's entry of default against defendant Exotics.com, Inc; the Commission staff intends to soon file a motion for default judgment by the court against said defendant. In addition, despite numerous attempts, the Commission has not yet been able to serve the Complaint upon defendant Gary Thomas, a/k/a Gary Thomas Vojtesak, who the Commission staff believes has received actual notice of this lawsuit but is apparently avoiding service of process. The Commission staff intends to shortly file a motion, pursuant to Fed.R.Civ.P. 4(e)(1) and Fed.R.Civ.P.4(m), to allow service of process via alternative means upon Defendant Thomas/Vojtesak.

In sum, this Stipulated Discovery Plan and Scheduling Order is being submitted, pursuant to the Court's December 21, 2005 Order, despite the following outstanding facts: (1) only three of the thirteen principal defendants have thus far answered the Complaint; (2) the Court's October 2005 ruling that defendants Chapman and Flanagan do not have to answer the Complaint until completion of their currently-pending criminal trial; (3) the pending motion to dismiss by defendant Andersen; (4) one of the defendants has not yet been served because he appears (to the Commission staff) to be avoiding service; and (5) the Commission staff is currently negotiating potential settlements with five of the remaining principal defendants. As such, the parties would respectfully submit that the herein proposed deadlines should be revisited by the Court after defendants Chapman and Flanagan have been ordered to answer the Complaint and it becomes clear how many defendants remain in the action (after completion of on-going

settlement discussions). This Stipulated Discovery Plan and Scheduling Order contemplates that Defendant Duggan (or any other defendant with whom the Commission staff reaches a settlement in principle or is currently engaged in settlement discussions) will not participate in discovery, except as non-parties, unless and until the settlement in principle is rejected by the Commission or settlement discussions have ceased. The Commission staff believes that it will come to a reasonable understanding within the next few weeks whether it is likely to reach settlements in principle with the defendants with which it is currently engaged in settlement discussions.

II. Rule 26(f) Conference of the Parties

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 26-1(d), counsel for the Commission and counsel for Defendants have conferred on several occasions concerning, among other things: (i) the nature of the Commission's claims and Defendants' defenses; (ii) the possibility for a prompt settlement or resolution of the case; (iii) arranging for the disclosures required by Rule 26(a)(1); (iv) a proposed discovery plan; and (v) to prepare an agenda of items to be discussed at any scheduling conference which may be set by the Court.

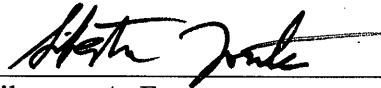
III. Proposed Schedule

The parties request that the Court adopt the following schedule:

EVENT	DATE
Initial Disclosures	March 17, 2006
Completion of Fact Discovery	July 13, 2007
Plaintiff's Fed. R. Civ. P. 26 Expert Disclosures	August 17, 2007
Defendants' Expert Disclosures	September 14, 2007
Completion of All Discovery	October 12, 2007
Deadline for filing any summary judgment	November 16, 2007

EVENT	DATE
motions	
Final Pre-Trial Conference	December 7, 2007
Trial	December 10, 2007

Respectfully submitted,



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ORDER

IT IS SO ORDERED:

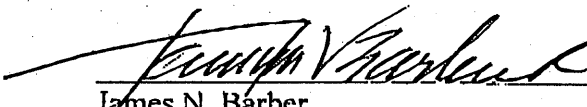
Honorable George W. Foley, Jr.
United States Magistrate Judge

EVENT	DATE
Trial	December 10, 2007

Respectfully submitted,

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ORDER

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IT IS SO ORDERED:

Honorable George W. Foley, Jr.
United States Magistrate Judge

February __, 2006

CERTIFICATE OF SERVICE

I, Silvestre A. Fontes, hereby certify that I today caused copies of the Stipulated Discovery Plan and Scheduling Order to be served, via ECF and/or first-class U.S. mail, upon the following:

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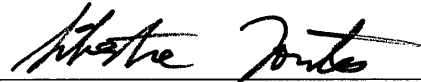
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A handwritten signature in dark ink, appearing to read "Silvestre Fontes", written over a horizontal line.

Silvestre A. Fontes

February 3, 2006